

Freedom of Information - What public sector staff need to know about FOI requests

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Agenda

Agenda is a column for outside contributors

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THE Scottish Information Commissioner has reported a year-on-year rise in Freedom of Information (FOI) requests, with an eight per cent increase in requests over 2018/19.

Designed to hold public bodies to account, FOI requests have become a well-formed tool of investigative journalism and have been the foundation of some of the UK'S biggest public sector scandals, including the 2009 scandal over MP expenses which ultimately led to prison terms for some MPs.

Concerns have been raised as to how many public authorities are missing the 20-day requirement to produce information where it is held or are failing to produce it at all.

It is not clear whether this is due to inadequate procedures within public authorities or a lack of understanding by those operating the system as to what is required.

Nevertheless, with mounting requests for information, now is the time for public sector organisations to educate employees on these issues and make sure that consistent processes are in place.

To achieve the 20-day turnaround requirement, the public authority must have a suitable system and governance mechanism to retrieve any relevantly requested information within the short time frame.

This also presumes that appropriately trained staff know what they are looking for and can find the information.

Training is an essential part of the puzzle to ensure cohesive understanding of what is required from public sector employees.

It is critical that the public body knows both what information it holds and where it is located, not only so it is easily accessible in the instance of an FOI request, but effective management of records also promotes business efficiency and supports good governance.

Exemptions under the legislation allow certain information to be withheld absolutely or subject to a further “public interest” test.

Staff need the skills to apply those legislative tests and exemptions both at the first stage of an application but also on review of the initial decision, if that is requested.

Depending on the organisation, employees should also be alerted to the exemptions that are most relevant to them so that they can be considered at the time documents are created, for example documents containing information that impacts national security.

Staff need to have a comprehensive understanding of the legislation if they are to respond promptly and correctly to applications for information.

Efficient systems for retaining and retrieving information will ease the response task and ensure the public authority is meeting the open scrutiny aspirations of the legislation.

It is the responsibility of management within public authorities to clearly define procedures, standards as well as employees’ personal accountabilities.

There are also considerations that public sector employees should be made aware of and consider when carrying out their role.

As an example, FOI does apply to official information which is held in private email accounts or in any other media format, as well as information that public bodies and authorities pass on to subcontractors.

It is vitally important that public sector employees have a comprehensive understanding of what freedom of information means for them.

Public sector organisations and authority leaders must ensure training on these issues stand up to what's required to protect the organisation and maintain appropriate conduct, as well as personally protect the people they employ.

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